

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MARK KING,

Plaintiff,

v.

**GOVERNMENT OF THE VIRGIN
ISLANDS, VIRGIN ISLANDS BUREAU OF
CORRECTIONS,**

Defendant.

1:16-cv-00025

**TO: Mark King, #16-036VIR, *Pro Se*
1252 East Arica Road
Eloy, AZ 85131**

REPORT AND RECOMMENDATION

THIS MATTER came before the Court upon *sua sponte* review. The record shows that the Court received a letter from Plaintiff that it docketed as a complaint on May 19, 2016. *See* ECF No. 1. Plaintiff failed to pay the requisite filing fee pursuant to 28 U.S.C. § 1914 or, in the alternative, file an application and affidavit to proceed *in forma pauperis* (IFP) under 28 U.S.C. § 1915, which permits a prisoner to commence suit in federal court without prepayment of fees. The failure to pay a filing fee or an application to proceed IFP was not the only deficiency the Court found with Plaintiff's filing. *See* Order (ECF No. 2), entered June 1, 2016.

King v. Government of the Virgin Islands
1:16-cv-00025
Order
Page 2

The Court directed the Clerk of Court to send to Plaintiff copies of the District Court's Prisoner Civil Rights Packet¹, Section 2241 Packet², and Section 2254 Packet³ and gave Plaintiff 60 days from the date of the Order to file a Section 1983 complaint or properly pled Section 2241 or Section 2254 petition and pay the requisite filing fee or file a motion to proceed without prepayment of fees. *Id.* at 3. The Court also warned Plaintiff that if he failed to comply with the said Order such failure could result in dismissal of this matter. *Id.* The record shows that the said Order was received on behalf of Plaintiff on June 14, 2016. *See* ECF No. 4.

After the 60 day-period had expired, the Court issued an Order to Show Cause, ordering Plaintiff to comply with the Court's previous Order or show good cause for his failure to comply and directed him to do so by September 30, 2016. Order to Show Cause (ECF No. 5), entered September 1, 2016. The Court again gave notice to Plaintiff that failure to comply could result in dismissal of his case. *Id.*

¹ The Prisoner Civil Rights Packet contains the following documents:

- (1) Instructions for filing a *Pro Se* Prisoner Civil Rights Complaint under 42 U.S.C. § 1983;
- (2) Civil Cover Sheet (Form JS 44);
- (3) Complaint (Form VI-P-CR);
- (4) Summons in a Civil Action (Form VI-AO 440);
- (5) Instructions for Proceeding *In Forma Pauperis* in a Civil Rights Action; and
- (6) Motion to Proceed in District Court without Prepaying Fees or Costs (Form VI-AO 240-P-CR).

² The Section 2241 Packet contains the following documents:

- (1) Petition under 28 U.S.C. § 2241 for a Writ of Habeas Corpus (Form AO 242); and
- (2) Motion to Proceed *In Forma Pauperis* in a 28 U.S.C. § 2254 Action (Form VI-AO 240-2254).

³ The § 2254 Packet contains the following documents:

- (1) Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Form VI-AO 241); and
- (2) Motion to Proceed *In Forma Pauperis* in a 28 U.S.C. § 2254 Action (Form VI-AO 240-2254).

King v. Government of the Virgin Islands
1:16-cv-00025
Order
Page 3

According to the record, the Court's Order to Show Cause was received on behalf of Plaintiff on September 6, 2016. The September 30, 2016, deadline has passed, and Plaintiff has not responded to the Order to Show Cause in any way.

Based upon the foregoing, it is now hereby **RECOMMENDED** that this matter be **DISMISSED** pursuant to Federal Rules of Civil Procedure Rule 41(b) for failure to prosecute and failure to comply with a court order.

Any objections to this Report and Recommendation must be filed in writing within fourteen (14) days of receipt of this notice. Failure to file objections within the specified time shall bar the aggrieved party from attacking such Report and Recommendation before the assigned District Court Judge. 28 U.S.C. § 636(b)(1); LRCi 72.3.

ENTER:

Dated: October 27, 2016

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
MAGISTRATE JUDGE